

Message Text

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PAGE 01 MADRID 01616 121251Z

44

ACTION EUR-25

INFO OCT-01 ISO-00 OMB-01 CIAE-00 DODE-00 PM-07 H-03

INR-10 L-03 NSAE-00 NSC-07 PA-04 RSC-01 PRS-01 SPC-03

SS-20 USIA-15 TRSE-00 EB-11 STR-08 CIEP-02 XMB-07

COME-00 FMC-04 INT-08 AID-20 CG-00 DOTE-00 COA-02

DLOS-06 DRC-01 /170 W

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R 111709Z MAR 74

FM AMEMBASSY MADRID

TO SECSTATE WASHDC 8364

USCINCEUR

USAFE

USMNR SHAPE BRUSSELS

COMNAVACTS

16TH AF TORREJON

C O N F I D E N T I A L MADRID 1616

E.O. 11652: GDS

TAGS: PFOR, MARR, SP

SUBJ: JOINT COMMITTEE: PORT TARRIFF EXEMPTION

REF: MADRID 1591

1. AT 11TH JOINT COMMITTEE MEETING MARCH 6, TWO SPECIALISTS FROM MINISTRY OF FINANCE OUTLINED SPANISH ARGUMENTS WHY G-3 TARIFF NOT SUBJECT TO EXEMPTION UNDER 1953 TAX RELIEF ANNEX.

2. EXPERTS REITERATED BRIEFLY ESSENCE OF ARGUMENTS PREVIOUSLY PROVIDED

BY GOS: (A) 1966 LAW OF PORTS REPRESENTED COMPLETE CHANGE FROM PREVIOUS PORT CHARGE SYSTEMS IN EFFORT TO PUT FINANCING OF PORT OPERATIONS ON MORE SOUND BASIS: (B) THAT LAW COMPLETELY CHANGED BOTH "CRITERION" AND "TERMINOLOGY" OF PORT TARIFFS. SINCE THAT TIME G-3 TARIFF HAS NOT BEEN A TAX BUT A GENERAL CHARGE FOR USE OF PORT:

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PAGE 02 MADRID 01616 121251Z

(C) G-3 TARIFF THEREFORE NOT A TAX, SUBJECT TO RELIEF, BUT A TYPE

OF REQUITAL ("CONTRAPRESTACION") FOR THE GENERAL SERVICE OF PORT.

3. I INQUIRED WHETHER G-3 TARIFF COULD BE CONSIDERED AN OVERHEAD CHARGE IN NATURE OF A CHARGE FOR GENERAL PORT SERVICES RENDERED DIRECTLY TO SHIP OPERATORS, EXPRESSING MY UNDERSTANDING THAT SHIPS USING PORTS PAY ADDITIONALLY FOR SPECIFIC SERVICES SUCH AS DOCKAGE, ETC. FINANCE MINISTRY EXPERTS CONFIRMED THIS UNDERSTANDING, POINTING OUT THAT G-3 IS A GENERAL CHARGE FOR USE OF PORT AND SPECIFIC SERVICES

CHARGES ARE HANDLED SEPARATELY UNDER "E-3 TARIFF" SERIES. I CONCLUDED THAT NO SOLUTION TO IMPASSE WOULD BE POSSIBLE UNTIL US SPECIALISTS MET WITH MINISTRY OF FINANCE EXPERTS AND WENT OVER ALL ASPECTS OF PROBLEM. (ARTICLE 2, PARAGRAPH 4 OF TAX RELIEF ANNEX PROVIDES THAT DIFFERENCES CONCERNING IMPLEMENTATION OF ANNEX MAY BE REFERRED TO "BOARD COMPOSED OF COMPETENT AUTHORITIES OF BOTH GOVERNMENTS.") FOREIGN MINISTER ACCEPTED THIS SUGGESTION.

4. I BELIEVE THAT WE HAVE REACHED THE LIMITS OF WHAT WE CAN ACCOMPLISH

ON THIS ISSUE HERE WITH RESOURCES AVAILABLE TO US LOCALLY. I STRONGLY RECOMMEND THAT THE DEPARTMENT DETAIL ONE OR TWO OFFICIALS FROM STATE AND/OR DOD SPECIALIZED IN TAX RELIEF MATTERS TO VISIT SPAIN

BRIEFLY FOR THOUOUGH DISCUSSION OF ALL ASPECTS OF THIS CASE WITH FINANCE AND FOREIGN MINISTRY SPECIALISTS WITH A VIEW TO EARLY DECISION. TIME IS WORKING AGAINST US. GOS HAS REPEATEDLY STATED ITS INTENTION TO GO AHEAD AND IMPOSE TAX ON US PORT CONTRACTORS IN CADIZ AREA. IN THIS RESPECT GOS HAS SIGNIFICANT ADVANTAGE, SINCE IT CONTROLS PORT FACILITIES AND HAS FULL LEGAL JURISDICTION OVER CONTRACTORS SERVING US. AWARE THAT THEY ARE CAUGHT IN THE MIDDLE, CONTRACTORS AND CARRIERS (SUCH AS SEA LAND) ARE FEARFUL OF GOS LEGAL ACTION AND HAVE BEEN PRESSING US FOR AN EARLY RESOLUTION OF THIS PROBLEM. I AGAIN URGE US SPECIALISTS BE DESIGNATED PROMPTLY.

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